

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MARIA LUISA GARCIA-GARCIA,
Plaintiff,
v.
UNITED STATES OF AMERICA,
Defendant.

Case No. [5:18-cv-02422-EJD](#)

**ORDER DENYING MOTION FOR
RECONSIDERATION**

Re: Dkt. No. 26

By order dated October 10, 2018, the Court held that Plaintiff's FTCA claim was time-barred, having been filed more than six months after Plaintiff received notification of the Department of Health and Human Services' denial of her claim for negligence. Dkt. No. 23. A Judgment was issued the same day. Dkt. No. 24. Plaintiff moves for reconsideration, asserting for the first time that a serious illness and treatment constitute grounds for applying equitable tolling.

Trial courts have the inherent power to reconsider, set aside, or amend interlocutory orders at any time prior to the entry of a final judgment. Fed. R. Civ. P. 54(b). Pursuant to Civil Local Rule 7-9(a), motions for reconsideration may not be filed without leave of court. There are three recognized grounds for reconsideration:

- (a) That at the time of the motion for leave, a material difference in fact or law exists from that which was presented to the Court before entry of the interlocutory order for which reconsideration is sought. The party also must show that in the exercise of reasonable diligence the party applying for reconsideration did not know such fact or law at the time of the interlocutory order; or
- (b) The emergence of new material facts or a change of law occurring after the time of such order; or

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(c) A manifest failure by the Court to consider material facts or dispositive legal arguments which were presented to the Court before such interlocutory order.

Civil Local Rule 7-9(b).

Here, Plaintiff has not made the requisite showing to warrant reconsideration on any of the three grounds. A motion for reconsideration may not be used to raise arguments or present evidence for the first time when they could reasonably have been raised earlier. *Kona Enterprises, Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000) (citation omitted).

Plaintiff's motion for reconsideration is DENIED.

IT IS SO ORDERED.

Dated: December 11, 2018



EDWARD J. DAVILA
United States District Judge